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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

22 Clarence Wayne Dixon,

23 Plaintiff,

24 vs.

25 Arizona Department of Corrections,  
26 Rehabilitation & Reentry (ADCRR), et al.,

27 Defendants.  
28

No. CV-22-00604-PHX-DJH

DEATH-PENALTY CASE

**STIPULATED SETTLEMENT  
AGREEMENT AND [PROPOSED]  
ORDER**

1 Plaintiff Clarence Wayne Dixon (“Plaintiff”) and Defendants the Arizona  
2 Department of Corrections, Rehabilitation & Reentry (“ADCRR”); David Shinn, Director  
3 of the ADCRR; James Kimble, Warden, ASPC – Eyman; and Travis Scott, Deputy  
4 Warden, ASPC – Browning Unit (collectively, “Defendants”) hereby stipulate and agree  
5 as follows:

6 **WHEREAS**, Plaintiff was declared legally blind in 2015 and is a qualified  
7 individual with a disability under the Americans With Disabilities Act (“ADA”) and  
8 Section 504 of the Rehabilitation Act (“Section 504”);

9 **WHEREAS**, ADCRR had previously designated Plaintiff as having “Medical  
10 ADA Restrictions/Special Needs” and provided him with accommodations including the  
11 use of several physical auxiliary aids and the assistance of a “blind aide” who has helped  
12 Plaintiff to navigate his surroundings by escorting him to and from medical appointments  
13 and visitation; completed prison-related forms and other paperwork, including health  
14 needs requests; helped him locate items in his cell and identify physical barriers and  
15 persons who have been in his immediate surroundings; read and transcribed  
16 correspondence, including letters, emails, and legal mail, and provided other assistance  
17 needed to accommodate Plaintiff’s disability (hereafter, the “Blind Aide Services”);

18 **WHEREAS**, on January 5, 2022, the State of Arizona moved the Arizona Supreme  
19 Court to set a briefing schedule on its anticipated motion for a warrant of execution for  
20 Plaintiff. *See* Motion to Set Briefing Schedule for Motion for Warrant of Execution, *State*  
21 *of Arizona v. Clarence Wayne Dixon*, No. CR–08–0025–AP (Ariz. Jan. 5, 2022);

22 **WHEREAS**, on February 9, 2022, the Arizona Supreme Court granted the State’s  
23 motion and set a briefing schedule on the warrant for Plaintiff’s execution that concluded  
24 on March 31, 2022. Order, *State of Arizona v. Clarence Wayne Dixon*, No. CR–08–0025–  
25 AP (Ariz. Feb. 9, 2022);

26 **WHEREAS**, on April 5, 2022, the Arizona Supreme Court issued a warrant of  
27 execution for Plaintiff, and his execution is scheduled to occur on May 11, 2022;

28 **WHEREAS**, on April 13, 2022, Plaintiff filed in the United States District Court

1 for the District of Arizona a civil action against Defendants and John Does, Unknown  
 2 ADCRR Personnel, in their official capacities as Employees, Contractors, and/or Agents  
 3 of the ADCRR, *Dixon v. ADCRR, et al.*, No. CV-22-00604-PHX-DJH (JFM), asserting  
 4 claims for violations of the Eighth and Fourteenth Amendments to the United States  
 5 Constitution, the ADA, and Section 504 (the “Lawsuit”);

6 **WHEREAS**, that same day, Plaintiff filed an Emergency Motion for Temporary  
 7 Restraining Order or Preliminary Injunction requesting that the Court issue an order  
 8 requiring ADCRR to return Plaintiff to his previous location at Central Unit where he has  
 9 access to his blind aide, or, alternatively, to provide him with an appropriate blind aide at  
 10 his current location at Browning Unit;

11 **WHEREAS**, on April 14, 2022, the Court screened Plaintiff’s complaint pursuant  
 12 to 28 U.S.C. § 1915A(a), dismissed without prejudice the Doe defendants, dismissed  
 13 Plaintiff’s separate cause of action for declaratory and injunctive relief because those  
 14 forms of relief are remedies not causes of action, and found that Plaintiff had sufficiently  
 15 alleged Eighth Amendment, ADA, and Section 504 claims against the remaining named  
 16 Defendants;

17 **In consideration of Plaintiff’s agreement to dismiss the Lawsuit as described**  
 18 **below, IT IS THEREFORE STIPULATED AND AGREED** that:

19 1. ADCRR shall designate one correctional officer, CO III, or such other  
 20 employee, contractor, or agent who shall serve as Plaintiff’s blind aide (hereafter “Blind  
 21 Aide”) and who shall provide Blind Aide Services throughout the remainder of Plaintiff’s  
 22 placement on Death Watch, in accordance with the following:

- 23 a. Any and all information or observations (the “Confidential Information”)  
 24 obtained by the Blind Aide shall be considered privileged under the work-  
 25 product or attorney-client privileges, will remain confidential, and will not  
 26 be subject to disclosure in any form whatsoever. The Blind Aide will not  
 27 provide any Confidential Information to Defendants, their agents, officials,  
 28 employees, and/or contractors, or any other individual.

1           b. The Blind Aide will not memorialize any Confidential Information the  
2           Blind Aide obtains while serving in the capacity of Plaintiff's Blind Aide.  
3           The Blind Aide will not place any Confidential Information obtained in this  
4           capacity in any departmental or individual file, or in any other location other  
5           than the locations directed by Plaintiff.

6           c. Plaintiff will not be considered to waive or have waived the attorney-client  
7           or work-product privileges by receiving Blind Aide Services from any Blind  
8           Aide.

9           d. Defendants, their agents, officials, employees, and/or contractors will not  
10          seek Confidential Information from the Blind Aide(s).

11          2. In the event a Blind Aide discloses Confidential Information (whether  
12          intentional or inadvertent), the Confidential Information shall nevertheless remain  
13          privileged and will not be subject to further disclosure, nor shall it be admissible in any  
14          legal proceeding. Moreover, Defendants will immediately inform Plaintiff's counsel of  
15          the disclosure, to whom it was made, and what was disclosed. Defendants will take  
16          appropriate action to prevent recurrences of such disclosures.

17          3. Defendants will ensure that any Blind Aide will acknowledge his/her duties  
18          hereunder to protect and preserve all Confidential Information, by requiring the Blind  
19          Aide to sign an "Agreement to Provide Blind Aide Services Subject to Confidentiality and  
20          Preservation of Attorney-Client and Work-Product Privileges" appended hereto as  
21          Attachment A.

22          4. Defendants agree that Blind Aide(s) or other individuals who interact with  
23          Plaintiff for the duration of his time on Death Watch shall verbally identify themselves to  
24          Plaintiff.

25          5. Defendants will ensure provision of the following accommodations and  
26          services in the period leading up to and during Plaintiff's scheduled execution:

27               a. While being transported to Housing Unit 9 and from the holding cell to the  
28               execution chamber, Plaintiff will be escorted and assisted by ADCRR staff.

1 ADCRR will make available a wheelchair to facilitate transport. Plaintiff  
2 will be transported in the wheelchair only upon his request or if he is unable  
3 to walk while being escorted and assisted. Once Plaintiff is in the holding  
4 cell, the Blind Aide will verbally describe for Plaintiff the space layout of  
5 the holding cell and surrounding area.

6 b. Upon entering Housing Unit 9, a staff member will verbally describe for  
7 Plaintiff the space layout of the execution chamber, including the holding  
8 cell, execution table, and location of witnesses, using clock or compass  
9 directions.

10 c. Defendants will designate a person or persons to narrate to Plaintiff events  
11 and all other activities that would be observable to a sighted person in the  
12 same location. That narrator will provide an explanation of the IV insertion  
13 process as it is happening and answer any questions Plaintiff has about his  
14 surroundings and observable ADCRR staff activities.

15 d. All ADCRR staff, including but not limited to the IV Team members and  
16 Restraint Team members, will verbally alert Plaintiff before touching his  
17 person and will describe to him any procedures before they are performed.

18 6. The parties do not hereby intend to settle any pending litigation between  
19 Plaintiff and Defendants other than the Lawsuit, and Plaintiff expressly reserves the right  
20 to raise other challenges to his scheduled execution.

21 7. The terms hereinabove shall be submitted to the Court and be made subject  
22 to an Order enforceable by the Court. The Lawsuit shall be dismissed without prejudice,  
23 subject to the Court's retention of jurisdiction to enforce its Order that the parties adhere  
24 to the terms of this Agreement.

25 ///

26 ///

27 ///

28 ///

1           **IT IS SO STIPULATED.**

2           Respectfully submitted this 20th day of April, 2022.

3  
4           Jon M. Sands  
5           Federal Public Defender

              Jeffrey L. Sparks  
              Acting Chief Counsel  
              Capital Litigation Section  
              Office of the Attorney General

6           Alison Y. Rose  
7           Amanda C. Bass  
8           Eric Zuckerman  
9           Jennifer M. Moreno  
              Assistant Federal Public Defenders

10          By: s/ Alison Y. Rose  
11          Counsel for Plaintiff

              By: s/ Jeffrey L. Sparks  
              Counsel for Defendants

**Certificate of Service**

I hereby certify that on April 20, 2022, I electronically filed the foregoing Stipulated Settlement Agreement and [Proposed] Order with the Clerk's Office using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Kat Esparza  
Assistant Paralegal  
Capital Habeas Unit